

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

BETTER CHOICE FOUNDATION,
d/b/a MARY D. COGHILL SCHOOL
Employer

and

Case 15-RC-197643

UNITED TEACHERS OF NEW ORLEANS,
LOCAL 527, LFT, AFT
Petitioner

ORDER

The Employer's Request for Review of the Regional Director's Decision and Direction of Election is denied as it raises no substantial issues warranting review.

MARK GASTON PEARCE, MEMBER

LAUREN McFERRAN, MEMBER

Dated, Washington, D.C., August 22, 2017.

Acting Chairman Miscimarra, dissenting:

I would grant the Employer's Request for Review and dismiss the petition. The Employer operates a charter school chartered by the Orleans Parish (Louisiana) School Board, a publicly-elected body, pursuant to the Louisiana Charter School Demonstration Programs Law. For purposes of this case, I do not address my colleagues' finding that the Employer fails to constitute a "political subdivision" of the State of Louisiana exempt from the Board's jurisdiction pursuant to Section 2(2) under the standard set forth in *NLRB v. Natural Gas Utility District of Hawkins County*, 402 U.S. 600 (1971), and as discussed in my dissenting opinion in *Hyde Leadership Charter School-Brooklyn*, 364 NLRB No. 88, slip op. at 9-16 (2016) (Acting Chairman Miscimarra, dissenting). Instead, for the reasons fully explained in my dissenting opinions in *Pennsylvania Virtual Charter School*, 364 NLRB No. 87, slip op. at 11-18 (2016) (Acting Chairman Miscimarra, dissenting), and *Hyde Leadership Charter School-Brooklyn*, supra, slip op. at 14-16, I believe the Board should decline to assert jurisdiction over charter schools generally and in this case. Declining jurisdiction is particularly appropriate in this case, because more than 90 percent of all Orleans Parish public school students currently attend independent public charter schools like the Employer. In my view, that, along with other factors, underscores that the Orleans Parish charter schools are "essentially local in nature" and "peculiarly related to, and regulated by, local governments." *Pennsylvania Virtual Charter*

School, supra, slip op. at 13 (quoting *Hialeah Race Course*, 125 NLRB 388, 391 (1959) and 38 Fed. Reg. 9537, 9537 (1973)).

PHILIP A. MISCIMARRA, CHAIRMAN